

In the Matter of License Nos. A-101639 and 53007 and all other  
Seaman Documents  
Issued to: Frank Deebold III

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1401

Frank Deebold III

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1

By order dated 11 January 1963, an Examiner of the United States Coast Guard, having conducted a hearing at Atlantic City, New Jersey on 26 October 1962, revoked Appellant's seaman documents upon finding him guilty of misconduct and negligence. The specifications under the charge of negligence were proved by evidence that while serving as operator on board the United States MB DIVER II under authority of License No. 53007 on 15 July 1962, Appellant passed Stern's Dock, Atlantic City, at such a high speed as to produce swells which caused two moored fishing vessels to roll and come together forcefully enough to damage their guard rails; later in the day on 15 July 1962, in the vicinity of Collier Wreck off Atlantic City, Appellant allowed his motorboat to drift down on, and strike, the bow of another fishing vessel causing minor damages; on 12 September 1962, Appellant was maneuvering the Diver II away from her dock at Atlantic City when she struck the stern of a moored fishing vessel and left the scene of the accident. There was minor structural damage to the other vessel which required calking to stop her from leaking.

The two misconduct specifications allege that Appellant operated motorboats from 18 May 1962 and 21 June 1960 until the date of the allegations, under authority of License Nos. 53007 and A-101639, respectively, both of which licenses were obtained falsely swearing that the answer was negative to the following question on the license application:

"Have you ever been convicted by any court (including military court) for other than a minor traffic violation?" These two offenses were proved by counsel's admission that Appellant had been convicted in the Municipal Court of Atlantic City, New Jersey for assault and battery of his wife and received a suspended sentence.

On appeal, it is contended that the transcript is not

accurate, the decision is contrary to the weight of the evidence, the Investigating Officer was allowed to testify without Cross-examination, there is no legitimate proof of actual damage to any of the vessels involved, Appellant was led to believe by the court clerk that he correctly answered the question on the license applications, and the order of the revocation is too severe.

Appearance for Appellant: Joseph Lazarow, Esquire, of Atlantic City New Jersey, of Counsel.

#### OPINION

There is no support in the record for the contentions that the transcript is not accurate and that the Investigating Officer was allowed to testify.

Concerning the negligence alleged, there is much conflicting evidence. Issues to the credibility of witnesses were resolved against Appellant and his witnesses when the Examiner concluded that the specifications were proved. Hence, the decision is not contrary to the weight of the evidence accepted as credible by the trier of facts. Nevertheless, these offenses of negligence are comparatively minor ones. This conclusion is justified by the absence of proof that there was serious damage done to any of the fishing vessels involved.

Although the assault and battery offense should have been reported on the license applications as a court conviction, it is not such an offense as would have precluded the issuance of the licenses of the licenses if the offense had been disclosed. Therefore, the order will be modified.

#### ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 11 January 1963, is modified to provide for a suspension of six (6) months on twelve (12) months' probation.

If this probation is violated, the six months' suspension will become effective as directed by any Coast Guard Examiner who finds Appellant guilty of a later offense committed within the probationary period. This six months' suspension may be a part of the order which is entered by such examiner.

As so MODIFIED, the order is

AFFIRMED.

E.J. Roland  
Admiral U.S. Coast Guard  
Commandant

Signed at Washington, D.C., this 8th day of July 1963

